

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

BROADCAST MUSIC, INC.;
MJ PUBLISHING TRUST d/b/a MIJAC MUSIC;
EMI VIRGIN SONGS, INC.; LANEY JANE MUSIC;
DIXONYOU MUSIC; ERIC TURNER MUSIC;
RICH MCBITCH MUSIC; GREAT LIPS MUSIC;
SCREEN GEMS-EMI MUSIC, INC.; CANDY
CASTLE MUSIC; COMBINE MUSIC CORP.;
CYANIDE PUBLISHING; RATT MUSIC;
TIME COAST MUSIC; RIGHTSONG MUSIC, INC.;
JAY BOY MUSIC CORP.; EMBASSY MUSIC
CORPORATION; HORNS R US MUSIC, INC.;
EMI BLACKWOOD MUSIC, INC.

PLAINTIFFS

CIVIL ACTION NO.: 2:10CV096-NBB-DAS

DESOTO RESTAURANT MANAGEMENT GROUP, LLC
D/B/A BOILING POINT SEAFOOD & OYSTER, AND
CHARLIE L. WIGGINS, INDIVIDUALLY

DEFENDANTS

AMENDED COMPLAINT

Plaintiffs, by their attorneys, for their Amended Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the 'Copyright Act'). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 320 West 57th

Street, New York, New York 10019. BMI has been granted the right to license the public performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. MJ Publishing Trust is a Trust d/b/a Mijac Music. Plaintiff is the copyright owner of at least one of the songs in the matter.

6. EMI Virgin Songs Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

7. Laney Jane Music is a sole proprietorship owned by John Patrick Oswald a/k/a Jani Lane. This Plaintiff is the copyright owner of at least one of the songs in the matter.

8. Dixonyou Music is a sole proprietorship owned by Jerry Lawrence Dixon. This Plaintiff is the copyright owner of at least one of the songs in the matter.

9. Eric Turner Music is a sole proprietorship owned by Eric Benjamin Turner. This Plaintiff is the copyright owner of at least one of the songs in the matter.

10. Rich McBitch Music is a sole proprietorship owned by Joseph Allen Cagle a/k/a Joey Allen. This Plaintiff is the copyright owner of at least one of the songs in the matter.

11. Great Lips Music is a sole proprietorship owned by Steven J. Chamberlin, a/k/a Steven Sweet. This Plaintiff is the copyright owner of at least one of the songs in the matter.

12. Screen Gems-EMI Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

13. Candy Castle Music is a sole proprietorship owned by Frederick De Mann. This Plaintiff is the copyright owner of at least one of the songs in the matter.

14. Combine Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

15. Cyanide Publishing is a partnership owned by Robert Kuykendall, Richard A. Ream, Bruce Johannesson and Bret M. Sychak. This Plaintiff is the copyright owner of at least three of the songs in the matter.

16. Ratt Music is a partnership owned by Stephen Percy, Robbin Lantz Crosby, Juan Carlos Croucier, Warren DeMartini and Robert John Blotzer. This Plaintiff is the copyright owner of at least one of the songs in the matter.

17. Time Coast Music is a sole proprietorship owned by Marshall Berle. This Plaintiff is the copyright owner of at least one of the songs in the matter.

18. Rightsong Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

19. Jay-Boy Music Corp. is a Corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

20. Embassy Music Corporation is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

21. Horns R Us Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter.

22. EMI Blackwood Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in the matter

23. Defendant DeSoto Restaurant Management Group, LLC is a limited liability company organized and existing under the laws of the state of Mississippi, which operates, maintains and controls an establishment known as Boiling Point Seafood & Oyster, located at 4975 Pepper Chase Dr., Southaven, MS 38671-7403, in this district (the "Establishment").

24. In connection with the operation of this business, Defendant, DeSoto Restaurant Management Group, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

25. Defendant DeSoto Restaurant Management Group, LLC has a direct financial interest in the Establishment.

26. Defendant Charlie L. Wiggins is an officer of Defendant DeSoto Restaurant Management Group, LLC, with primary responsibility for the operation and management of that corporation and the Establishment.

27. Defendant Charlie L. Wiggins has the right and ability to supervise the activities of Defendant DeSoto Restaurant Management Group, LLC, and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

28. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 22.

29. Plaintiffs allege twelve (12) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Amended Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the

convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

30. Annexed as the Schedule and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the twelve (12) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration. number(s) ; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

31. Each of the musical compositions identified on the Schedule, Line 2, were created by the persons named on Line 3 (all references to Lines are lines on the Schedule).

32. For each work, on or about the dates indicated on Line 5, the publishers named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the numbers listed on Line 6.

33. For each work, on the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the public performance rights in the musical compositions identified on Line 2. For each work, on the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright in the respective musical composition listed on Line 2.

34. For each work, on the dates listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed at Boiling Point Seafood & Oyster without a license or permission to do so. Thus, Defendants have committed copyright infringement.

35. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at Boiling Point Seafood & Oyster, Defendant threatens to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

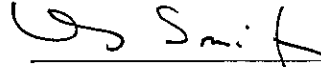
(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) That Plaintiffs have such other and further relief as is just and equitable.

Dated: July 22, 2010

By:



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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Billie Jean
Line 3	Writer(s)	Michael Jackson
Line 4	Publisher Plaintiff(s)	MJ Publishing Trust d/b/a Mijac Music
Line 5	Date(s) of Registration	12/27/82
Line 6	Registration No(s).	PA 158-772
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Bolling Point Seafood & Oyster

Line 1	Claim No.	2
Line 2	Musical Composition	Cherry Pie
Line 3	Writer(s)	EMI Virgin Songs Inc. as employer-for-hire of: John Patrick Oswald p/k/a Jani Lane; Joey Cagle p/k/a Joey Allen; Jerry Dixon; Steven Chamberlain p/k/a Steven Sweet; Eric Turner
Line 4	Publisher Plaintiff(s)	EMI Virgin Songs Inc.; John Patrick Oswald a/k/a Jani Lane d/b/a Laney Jane Music; Jerry Lawrence Dixon d/b/a Dixonyou Music; Eric Benjamin Turner d/b/a Erik Turner Music; Joseph Allen Cagle a/k/a Joey Allen d/b/a Rich McBitch Music; Steven J. Chamberlin a/k/a Steven Sweet d/b/a Great Lips Music
Line 5	Date(s) of Registration	11/27/90
Line 6	Registration No(s).	PA 510-151
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Bolling Point Seafood & Oyster

Line 1	Claim No.	3
Line 2	Musical Composition	Final Countdown AKA The Final Countdown
Line 3	Writer(s)	Joey Tempest
Line 4	Publisher Plaintiff(s)	Screen Gems-EMI Music, Inc.
Line 5	Date(s) of Registration	6/25/86
Line 6	Registration No(s).	PA 292-477
Line 7	Date(s) of Infringement	12/21/10
Line 8	Place of Infringement	

Line 1	Claim No.	4
Line 2	Musical Composition	Material Girl a/k/a Living In A Material World a/k/a I Am A Material Girl
Line 3	Writer(s)	Peter Brown; Robert Rans
Line 4	Publisher Plaintiff(s)	Frederick De Mann d/b/a Candy Castle Music
Line 5	Date(s) of Registration	3/19/84
Line 6	Registration No(s).	PAu 598-777
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	5
Line 2	Musical Composition	Me And Bobby McGee
Line 3	Writer(s)	Kris Kristofferson; Fred Foster
Line 4	Publisher Plaintiff(s)	Combine Music Corp.
Line 5	Date(s) of Registration	7/18/69
Line 6	Registration No(s).	Ep 260746
Line 7	Date(s) of Infringement	2/19/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	6
Line 2	Musical Composition	Nothin' But A Good Time
Line 3	Writer(s)	Bret Michael Sychak p/k/a Bret Michaels; Bruce Anthony Johannesson p/k/a C.C. DeVille; Robert Harry Kuykendall p/k/a Bobby Dail; Richard Ream p/k/a Rikki Rockett
Line 4	Publisher Plaintiff(s)	Robert Kuykendall, Richard A. Ream, Bruce Johannesson and Bret M. Sychak, a partnership d/b/a Cyanide Publishing
Line 5	Date(s) of Registration	8/15/88
Line 6	Registration No(s).	PA 377-966
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	7
Line 2	Musical Composition	Round And Round
Line 3	Writer(s)	Stephen Percy, Robbin Crosby, Warren DeMartini
Line 4	Publisher Plaintiff(s)	Stephen Percy, Robbin Lantz Crosby, Juan Carlos Croucier, Warren DeMartini and Robert John Blotzer, a partnership d/b/a Ratt Music; Marshall Berle d/b/a Time Coast Music; Rightsong Music, Inc.
Line 5	Date(s) of Registration	1/5/84
Line 6	Registration No(s).	PA 196-306
Line 7	Date(s) of Infringement	2/21/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	8
Line 2	Musical Composition	Talk Dirty To Me
Line 3	Writer(s)	Bret M. Sychak a/k/a Bret Michaels; Bruce Johannesson a/k/a C.C. DeVille; Robert Kuykendall a/k/a Bobby Dail; Richard A. Ream a/k/a Rikkie Rockett
Line 4	Publisher Plaintiff(s)	Robert Kuykendall, Richard A. Ream, Bruce Johannesson and Bret M. Sychak, a partnership d/b/a Cyanide Publishing
Line 5	Date(s) of Registration	3/19/87
Line 6	Registration No(s).	PA 322-917
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	9
Line 2	Musical Composition	You Really Got Me
Line 3	Writer(s)	Ray Davies
Line 4	Publisher Plaintiff(s)	Jay-Boy Music Corp.
Line 5	Date(s) of Registration	9/23/64
Line 6	Registration No(s).	Ef 29476
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	10
Line 2	Musical Composition	Unskinny Bop
Line 3	Writer(s)	Bret Michael Sychak, Bruce Anthony Johannesson, Robert Harry Kuykendall, Richard Alan Ream
Line 4	Publisher Plaintiff(s)	Robert Kuykendall, Richard A. Ream, Bruce Johannesson and Bret M. Sychak, a partnership d/b/a Cyanide Publishing
Line 5	Date(s) of Registration	12/26/90
Line 6	Registration No(s).	PA 510-236
Line 7	Date(s) of Infringement	12/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	11
Line 2	Musical Composition	Metal Health a/k/a Metal Health (Bang Your Head)
Line 3	Writer(s)	Kevin DuBrow; Carlos Cavazo; Frankie Banali; Tony Cavazo
Line 4	Publisher Plaintiff(s)	Embassy Music Corporation
Line 5	Date(s) of Registration	10/1/84
Line 6	Registration No(s).	PA 226-937
Line 7	Date(s) of Infringement	2/20/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster

Line 1	Claim No.	12
Line 2	Musical Composition	Take It Off
Line 3	Writer(s)	Maya Ford; Allison Robertson; Brett Anderson; Torrance Castellano
Line 4	Publisher Plaintiff(s)	Horns R Us Music, Inc.; EMI Blackwood Music, Inc.
Line 5	Date(s) of Registration	3/21/03
Line 6	Registration No(s).	PA 1-136-184
Line 7	Date(s) of Infringement	2/19/10
Line 8	Place of Infringement	Boiling Point Seafood & Oyster
